

House Bill 1258

By: Representatives Willard of the 49th, Burkhalter of the 50th, Holmes of the 61st, Wilkinson of the 52nd, Lindsey of the 54th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the joint county and municipal sales and use tax, so as to provide for the continued distribution of tax proceeds pending county and municipal agreement upon a renegotiated distribution certificate; to prevent lapsing of the tax if a renegotiated distribution certificate is not timely filed; to change provisions relating to the procedure for the call of a referendum election on discontinuing imposition of the tax; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the joint county and municipal sales and use tax, is amended by striking subsection (d) of Code Section 48-8-89, relating to the distribution and use of proceeds from joint county and municipal sales and use tax and certain procedures connected thereto, and inserting in its place a new subsection (d) to read as follows:

~~“(d)(1) Except as otherwise provided in paragraph (7) of this subsection, a certificate providing for the distribution of the proceeds of the tax authorized by this article shall expire on December 31 of the second year following the year in which the decennial census is conducted.~~ No later than December 30 of the second year following the year in which the decennial census is conducted, a renegotiated certificate meeting the requirements for certificates specified by subsection (b) of this Code section shall be filed with and received by the commissioner. The General Assembly recognizes that the requirement for government services is not always in direct correlation with population. Although a renegotiated certificate is required within a time certain of the decennial census, this requirement is not meant to convey an intent by the General Assembly that population as a criterion should be more heavily weighted than other criteria. It is the

1 express intent of the General Assembly in requiring such renegotiation that eligible
2 political subdivisions shall analyze local service delivery responsibilities and the existing
3 allocation of proceeds made available to such governments under the provisions of this
4 article and make rational the allocation of such resources to meet such service delivery
5 responsibilities. Political subdivisions in their renegotiation of such distributions shall
6 at a minimum consider the criteria specified in subsection (b) of this Code section.

7 (2) The commissioner shall be notified in writing of the commencement of renegotiation
8 proceedings by the county governing authority in behalf of all eligible political
9 subdivisions within the special district. The eligible political subdivisions shall
10 commence renegotiations at the call of the county governing authority but no later than
11 July 1 of the second year following the year in which the census is conducted. If the
12 county governing authority does not issue the call by that date, any eligible municipality
13 may issue the call and so notify the commissioner.

14 (3) Following the commencement of such renegotiation, if the parties fail to reach an
15 agreement within 60 days, such parties shall agree to submit the dispute to nonbinding
16 arbitration, mediation, or such other means of resolving conflicts in a manner which, in
17 the judgment of the commissioner, reflects a good faith effort to resolve the dispute. Any
18 renegotiation agreement reached pursuant to this paragraph shall be in accordance with
19 the requirements specified in paragraph (1) of this subsection.

20 (4) If the renegotiated certificate provided for in paragraph (1) of this subsection is not
21 received by the commissioner by the required date, the commissioner shall continue to
22 distribute the sales tax proceeds according to the percentages specified in the existing
23 certificate or in accordance with subsection (f) of Code Section 48-8-89.1 until such time
24 as a renegotiated certificate is received ~~the authority to impose the tax authorized by~~
25 ~~Code Section 48-8-82 shall cease on December 31 of the second year following the year~~
26 ~~in which the decennial census is conducted and the tax shall not be levied in the special~~
27 ~~district after such date unless the reimposition of the tax is subsequently authorized~~
28 ~~pursuant to Code Section 48-8-85. When the imposition of the tax is so terminated, the~~
29 ~~commissioner shall retain the proceeds of the tax which were to be distributed to the~~
30 ~~governing authorities of the county and qualified municipalities within the special district~~
31 ~~until the commissioner receives a certificate in behalf of each such governing authority~~
32 ~~specifying the percentage of the proceeds which each such governing authority shall~~
33 ~~receive. If no such certificate is received by the commissioner within 120 days of the date~~
34 ~~on which the authority to levy the tax was terminated, the proceeds shall escheat to the~~
35 ~~state and the commissioner shall transfer the proceeds to the state's general fund.~~

1 (5) If the commissioner receives ~~the~~ a renegotiated certificate by the required date, the
2 commissioner shall distribute the proceeds of the tax in accordance with the directions
3 of the renegotiated certificate commencing on January 1 of the year immediately
4 following the year in which such certificate was renegotiated or the first day of the second
5 calendar month following the month such certificate was renegotiated, whichever is
6 sooner.

7 (6) Costs of any conflict resolution under paragraph (3) of this subsection shall be borne
8 proportionately by the affected political subdivisions in accordance with the final
9 percentage distributions of the proceeds of the tax as reflected by the renegotiated
10 certificate.

11 ~~(7) All distribution certificates on file with the commissioner on July 1, 1994, which~~
12 ~~were not renegotiated in accordance with the 1990 decennial census figures or~~
13 ~~renegotiated on or after January 1, 1992, shall expire on December 31, 1995.~~
14 ~~Renegotiations with respect to such certificates shall be commenced in accordance with~~
15 ~~the requirements of this subsection on or before July 1, 1994. If a renegotiated certificate~~
16 ~~is not received by the commissioner by July 1, 1995, the authority to impose the tax~~
17 ~~authorized by Code Section 48-8-82 shall cease on December 31, 1995, and the tax shall~~
18 ~~not be levied in the special district after that date unless reimposition of the tax is~~
19 ~~subsequently authorized pursuant to Code Section 48-8-85. The commissioner shall retain~~
20 ~~and distribute the proceeds of such terminated tax in accordance with paragraph (4) of~~
21 ~~this subsection.~~

22 ~~(8) No qualified municipality within the special district whose population is less than 5~~
23 ~~percent of the population in the special district according to the United States decennial~~
24 ~~census of 1990 shall receive a reduced percentage of distribution than presently being~~
25 ~~received under the existing certificate prior to renegotiations required in paragraph (7)~~
26 ~~of this subsection unless the new agreement is executed by the qualified municipality.~~
27 ~~This paragraph shall apply only to the negotiations required by paragraph (7) of this~~
28 ~~subsection and shall not apply to any subsequent renegotiations required by this~~
29 ~~subsection.~~

30 ~~(9)~~(7) Political subdivisions shall be authorized, at their option, to renegotiate
31 distribution certificates on a more frequent basis than is otherwise required under this
32 subsection.

33 (8) Notwithstanding any other provision of this article to the contrary, the imposition of
34 this tax shall not terminate based on a failure to file a new or renegotiated certificate.

35 ~~(10)~~(9) No provision of this subsection shall apply to any county which is authorized to
36 levy or which levies a local sales tax, local use tax, or local sales and use tax for

educational purposes pursuant to a local constitutional amendment or to any county which is authorized to expend all or any portion of the proceeds of any sales tax, use tax, or sales and use tax for educational purposes pursuant to a local constitutional amendment."

SECTION 2.

Said article is further amended by striking subsection (d) of Code section 48-8-89.1, relating to the procedure for certifying additional qualified municipalities, issuance of new distribution certificate, and cessation of authority to collect tax ceasing upon failure to file a new certificate, and inserting a new subsection to read as follows:

~~"(d) If a new certificate is not filed for any special district as required by this Code section, the authority to impose the tax authorized by Code Section 48-8-82 within that special district shall cease on the first day of January of the year following the year in which the required distribution certificate could last have been timely filed. In any special district in which the authority to impose the tax is terminated pursuant to this subsection, the tax may thereafter be reimposed only pursuant to the procedures specified in Code Sections 48-8-84 through 48-8-86. Reserved."~~

SECTION 3.

Said article is further amended by striking subsection (a) of Code Section 48-8-92, relating to the referendum election to decide discontinuing imposition of a tax, and inserting a new subsection (a) to read as follows:

"(a) Whenever the governing authority of any county ~~or~~ and the governing authority of any qualified municipality or municipalities where the municipality or municipalities contain more than one-half of the aggregate population of all qualified municipalities located wholly or partially within a special district in which the tax authorized by this article is being levied ~~wishes~~ wish to submit to the electors of the special district the question of whether the tax authorized by Code Section 48-8-82 shall be discontinued, the governing ~~authority~~ authorities shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a resolution of the governing ~~authority~~ authorities calling for the referendum election. Upon receipt of the resolution, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of discontinuing the levy of the tax to the voters of the special district for approval or rejection. The election superintendent shall set the date of the election for a day not less than 30 nor more than 45 days after the date of the issuance of the call. The election superintendent shall cause the date and purpose of the election to be published once a week

for two weeks immediately preceding the date of the election in the official organ of the county. The ballot shall have written or printed thereon the following:

'() YES Shall the 1 percent retail sales and use tax being levied within the special
() NO district within _____ County be terminated?'"

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.